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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

LA ALLIANCE FOR HUMAN RIGHTS, et al.)	CASE NO. 20-02291-DOC
Plaintiff(s),)	Hon. David O. Carter
vs.)	Courtroom 1
City of Los Angeles, et. al.)	[PROPOSED] ORDER GRANTING
Defendant(s).)	INTERVENORS' EX PARTE
)	APPLICATION TO INTERVENE AS O
)	RIGHT
)	
)	Complaint Filed: March 10, 2020
)	
)	

1 Pursuant to Federal Rule of Procedure 24, Plaintiffs LA CAN and LACW have
2 moved to intervene as of right or, in the alternative, for permissive intervention in
3 this case.

4 Proposed Intervenor LA CAN is a grassroots, non-profit organization that has
5 operated in Skid Row and throughout Los Angeles for approximately two decades.
6 The primary purpose of the organization is to organize and empower community
7 residents to work collectively to address systemic poverty and oppression in the
8 community. For example, in 2016, LA CAN was a supporter of Measure HHH and
9 since then, has spent considerable resources working to ensure accountability in the
10 spending of Measure HHH funds, including threatening litigation in 2016 to prevent
11 the expenditure of funds on projects that were not authorized by the proposition. LA
12 CAN is a membership organization with unhoused members who are currently
13 unsheltered on the streets of Los Angeles. LA CAN moves to intervene in this
14 lawsuit on its own behalf and on behalf of its members who are unsheltered in Skid
15 Row and throughout Los Angeles.

16 Proposed Intervenor Los Angeles Catholic Worker, (“LACW”), founded in
17 1970, is an unincorporated lay Catholic community of women and men that operate a
18 free soup kitchen, hospitality house for the homeless, hospice care for the dying and
19 by-monthly newspaper. In furtherance of its mission, the Hippy Kitchen provides
20 food and other services, including access to dental care, over-the-counter
21 medications, podiatry services, toiletries and other personal items, including
22 shopping carts.

23 Both LA CAN and LACW were plaintiffs in *Mitchell v. City of Los Angeles*,
24 along with four homeless individuals who lived on the streets in Skid Row, and who
25 were arrested for incredibly minor quality of life offenses or subjected to street
26 cleanings, and had all of their belongings seized and destroyed or otherwise stored in
27 a location that was completely inaccessible to them. The individual plaintiffs in the
28 action assigned their rights to enforce the settlement to LA CAN and LACW.

1 In *Mitchell v. City of Los Angeles*, the parties entered into significant
2 negotiations and finally reached a tentative settlement. The Court retained
3 jurisdiction to enforce the settlement, and the Court dismissed the case. After the
4 settlement was finalized, the Plaintiffs in this case, then operating under the name
5 Downtown Alliance for Human Rights, filed a motion to intervene, which was denied
6 as untimely. The Plaintiffs filed a notice of appeal, but subsequently dismissed that
7 appeal and simultaneously filed this instant lawsuit, making the same allegations as
8 those outlined in Plaintiffs’ Motion to Intervene and as discussed below, seeking in
9 part to invalidate the settlement agreement in *Mitchell*.

10 **I. PROPOSED INTERVENORS ARE ENTITLED TO INTERVENE**
11 **AS A MATTER OF RIGHT**

12 Federal Rules of Civil Procedure 24(a) provides that a party “who claims an
13 interest relating to the property or transaction that is the subject of the action, and is
14 so situated that disposing of the action may as a practical matter impair or impede the
15 movant's ability to protect its interest” must be allowed to intervene in a case “unless
16 existing parties adequately represent that interest.” Fed. R. of Civ. Proc. 24(a)(2).

17 To be granted intervention as a matter of right, Proposed Intervenor must
18 demonstrate that 1) they have a “significant protectable interest” relating to the
19 matter that is the subject of the action; 2) a decision in the action may, as a practical
20 matter, impair or impede Proposed Intervenor’s ability to protect its interest; 3) the
21 request to intervene is timely; and 4) the existing parties may not adequately
22 represent proposed Intervenor’s interest. *Donnelly v. Glickman*, 159 F.3d 405, 409
23 (9th Cir. 1998). “Though the applicant bears the burden of establishing these
24 elements, we have repeatedly instructed that ‘the requirements for intervention are [to
25 be] broadly interpreted in favor of intervention.’” *Smith v. Los Angeles Unified*
26 *School District*, 830 F.3d 843, 853 (9th Cir. 2016). Proposed Intervenor easily
27 satisfy each of these prongs.

28 Proposed Intervenor has a significant protectable interest in this litigation.
Rule 24(a) does not require that the protectable interest at stake in the litigation be a

1 specific legal or equitable interest. *In re Estate of Ferdinand E. Marcos Human*
2 *Rights Litigation*, 536 F.3d 980, 984–85 (9th Cir. 2008)(quoting *S. Cal. Edison Co. v.*
3 *Lynch*, 307 F.3d 794, 802 (9th Cir.2002). Proposed Intervenorors have a legally
4 protectable interest in the settlement in *Mitchell v. City of Los Angeles*, which
5 Plaintiffs explicitly and implicitly challenge in this lawsuit. Plaintiffs allege in the
6 seventh cause of action that the settlement in *Mitchell* was a project under CEQA, for
7 which an environmental review was required. *See Comp.*, ¶ 165. The eleventh cause
8 of action challenges the settlement on due process and equal protection grounds,
9 namely that the settlement distinguished between Skid Row and the rest of the City
10 without a rational reason for doing so. In addition to those causes of action that
11 explicitly mention the *Mitchell* settlement, other causes of action, including the first,
12 third through fourth, and seventh causes of action for negligence, nuisance, and
13 violations of substantive due process, relate to conditions in Skid Row that Plaintiffs
14 allege throughout the complaint were caused by the *Mitchell* injunction and
15 settlement. *See e.g.*, *Comp.*, ¶¶ 30, 37, 48; *Comp.*, Pg. 47. ¹

16 To satisfy the second prong of the test for intervention as a matter of right,
17 Proposed Intervenorors must show that “the disposition of this case will, as a practical
18 matter, affect” the interest at stake. *California ex rel Lockyer v. U.S.*, 450 F.3d 436,
19 442 (9th Cir. 2006). Again, as with all of the factors, the proposed intervenors “need
20 not demonstrate that their interest would be impaired in a legal sense, only that their
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22 ¹ Proposed Intervenorors also have legally protected interests stemming from
23 advocacy to pass and subsequently to protect the integrity of Measure HHH, *see*
24 *Washington State Building & Construction Trades v. Spellman*, 684 F.2d 627 (9th
25 Cir. 982), as well as on behalf of their members, who have a protectable interest to
26 be free from increased enforcement and the violation of their constitutional rights.
27 Although less concrete than the right to protect their settlement, Courts have
28 recognized these as sufficient interests to support intervention, particularly where,
as here, there is no other representation of unsheltered homeless people in Los
Angeles, who are most likely to be impacted by any proposed remedies in this
case.

1 interest ‘would be substantially affected in a practical sense.’ *Sw. Ctf. for Biological*
2 *Diversity v. Berg*, 268 F.3d 810, 822 (9th Cir.) (quoting Fed. R. Civ. P. 24, Advisory
3 Committee Notes).

4 Here, the remedy sought by the Plaintiffs could have the effect of undermining or
5 even invalidating Proposed Intervenor’s settlement with the City of Los Angeles.
6 Indeed, Plaintiffs are seeking to do so here, just Plaintiffs explicitly sought to do
7 when they moved to intervene in the *Mitchell*, and they intended to object to and
8 ultimately aimed to invalidate the settlement. This is a more than sufficient showing
9 for intervention. *See e.g., Idaho Farm Bureau Fed. v. Babbitt*, 58 F.3d 1392, 1398
10 (1995) (decision in another case that could result in a legal decision undermining the
11 result of another case is sufficient showing of impairment to support intervention). In
12 addition, however, the settlement could also result in orders related to the
13 expenditures of Measure HHH funds and changes in the allocation of resources, as
14 well as the increased criminalization and enforcement of laws against LA CAN’s
15 members. All of these potential outcomes, contemplated by the sweeping complaint
16 filed by Plaintiffs, could impact Proposed Intervenor’s rights.

17 Third, as the City of Los Angeles has not yet answered, the request is timely. A
18 request made “at an early stage of the proceedings” will generally satisfy the
19 timeliness requirement. *See Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647
20 F.3d 893, 897 (9th Cir. 2011).

21 Finally, the parties in this case have distinct interests to those of the Proposed
22 Intervenor and cannot adequately represent the Proposed Intervenor’s interests.
23 *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 538 (1972). Proposed
24 Intervenor are the only party that represent the interests of unhoused persons.
25 Proposed Intervenor easily show they have a protectable interest that could be
26 affected by the resolution in this case, that they were timely in seeking to intervene,
27 and that none of the parties can protect their interests. As such, Proposed
28 Intervenor are entitled to intervene as a matter of right.

II. LA CAN AND LACW SHOULD BE ALLOWED PERMISSIVE INTERVENTION

In the alternative, this court finds that the Proposed Intervenors have also met the requirements of Rule 24(b), which allows permissive intervention when “an applicant’s claim or defense and the main action have a question of law or fact in common.” Fed. R. Civ. P. 24(b)(1)(B). Permissive intervention is in the “broad discretion of the trial court.” *GOJO Indus., Inc. v. Barough*, (“GOJO”), No. SACV171382DOCJDEX, 2018 WL 5880829, at *3 (C.D. Cal. Apr. 2, 2018). LACAN and LACW represent important interests in this case that are otherwise not represented and as such, should be allowed to permissively intervene.

As noted above, none of the parties currently in the case, include any individual who is currently unsheltered in Los Angeles. On the other hand, LA CAN and LACW have members and clients who live on the streets. Moreover, organizers and staff of LA CAN and LACW monitor what is happening on the streets, not just in Skid Row, but throughout Los Angeles. For example, the complaint alleges that the encampment under the overpass at Venice and the 405 is blocking the sidewalk. LA CAN has organizers and members that regularly visit that encampment and are familiar with the conditions there. The sweeps and property seizures at the overpass at Venice and the 405 divert LA CAN’s resources; yet this lawsuit is alleging the need for increased sweeps and enforcement. Complaint at 177.

Similarly, LA CAN, as mentioned above, has unhoused members that reside on Skid Row and would be impacted by increased sweeps and enforcement. Not only are their interests affected, their participation will aid the court in determining the factual context of the litigation and in proving or disproving the parties’ statements about accessibility and state-created danger. It will also aid the court to hear from un-sheltered individuals, as the only unhoused individual who is a Plaintiff became sheltered prior to the lawsuit beginning.

The Court finds that LA CAN and LACW have meet the standard for

1 intervention as of right, as this litigation has significant potential to impact the
2 settlement reached in the *Mitchell* case. It is so ORDERED.

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4 Dated: March ____, 2020

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6 The Honorable David O. Carter
7 United States District Judge
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